

DRAFT

MINERALS MANAGEMENT SERVICE

INFORMATION QUALITY GUIDELINES

Submission of comments on the Minerals Management Service's (MMS's) Draft

Information Quality Guidelines:

Comments on these draft guidelines are due by close of business August 31, 2002.

Comments should be sent to the following address:

U.S. Department of the Interior
Minerals Management Service
1849 C Street, N.W. (Mail Stop 4230)
Washington, DC 20240
Attention: AD/PMI

Comments may also be emailed to: **qualityinfo@mms.gov**

PART I: INTRODUCTION, BACKGROUND, TERMINOLOGY, AND SCOPE

INTRODUCTION

Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106-554) directs the Office of Management and Budget (OMB) to issue government-wide guidelines that “provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies.” OMB complied by issuing on January 3, 2002 (67 FR 369), and reissuing on February 22, 2002 (67 FR 8451), guidelines in the Federal Register which direct each federal agency to: (a) issue its own guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of information disseminated by the agency; (b) establish administrative mechanisms allowing affected persons to seek and obtain correction of information that does not comply with the OMB 515 Guidelines; and (c) report

periodically to the Director of OMB on the number and nature of complaints received by the agency regarding the accuracy of information disseminated by the agency and how such complaints were handled by the agency.

In compliance with OMB directives, the Department of the Interior issued draft Information Quality Guidelines Pursuant to Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 on May 24, 2002 (67 FR 26642) (<http://www.mms.gov/whatsnew>). In response to DOI's Federal Register Notice, this document represents implementation of MMS's Information Quality Guidelines. These guidelines are a living document and may be revised periodically to reflect changes in DOI's or MMS's policy or as best practices emerge about how best to address, ensure, and maximize information quality. MMS welcomes comments on the guidelines at any time and will consider those comments in any future revision of the guidelines.

BACKGROUND

The MMS mission is to manage the nation's natural gas, oil and other mineral resources on the outer continental shelf (OCS) in an environmentally sound and safe manner and, in a timely fashion, collect, verify and distribute mineral revenues generated from Federal and Native American lands. MMS has two operational programs to carry out that mission—Offshore Minerals Management and Minerals Revenue Management. Together they provide major economic and energy benefits on a national, State, tribal, and local level.

NOTE ON TERMINOLOGY

The terms “quality, utility, objectivity, integrity, information, government information, information dissemination product, dissemination, influential, and reproducibility” are defined in OMB's guidelines as published in the Federal Register on February 22, 2002. Where a different

or modified definition of any of these terms is applicable in a specific context, or associated with a specific information category, that definition will be provided in the context to which it applies.

SCOPE

These guidelines cover information disseminated (as defined in OMB's Guidelines) by MMS on or after October 1, 2002.

Information Disseminated by MMS and Covered by these Guidelines

In the context of these guidelines, the MMS disseminates information to the public when MMS initiates or sponsors the distribution of information to the public. The MMS initiates a distribution of information if MMS prepares the information and distributes it to support or represent MMS's policy, or to formulate or support a regulation, guidance, or other MMS decision or position. The MMS can initiate information distribution if: (1) MMS endorses or agrees with the information prepared or submitted by an outside party, (2) it is indicated that the information supports or represents MMS's viewpoint, or (3) the information is used, or will be used, to formulate or support an MMS regulation, guidance document, policy, or other bureau decision/position. Agency-sponsored distributions may include instances where MMS reviews and comments on information distributed by an outside party, or adopts or endorses the information.

Information Not Covered by these Guidelines

If an item is not considered "information," these guidelines do not apply. Items that are not considered information include but are not limited to:

- Information with distribution limited to Federal Government employees or MMS contractors or grantees.

- Information with distribution limited to intra- or inter-agency use or the sharing of government information.
- Responses to requests for agency records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act, or other similar law.
- Information relating solely to correspondence with individuals or persons.
- Press releases.
- Archival records, including library holdings.
- Public filings.
- Subpoenas.
- Information for adjudicative processes, including information developed during the conduct of any criminal or civil action or administrative enforcement action, investigation or audit against specific parties, or information distributed in documents related to any formal or informal administrative action determining the rights and liabilities of specific parties under applicable statutes and regulations.
- Solicitations (e.g., program announcements, requests for proposals).
- Information for advisory councils or advisory committee members.
- Hyperlinks to information that others disseminate, as well as paper-based information from other sources referenced, but not approved or endorsed by MMS.
- Policy manuals and management information produced for the internal management and operations of MMS, and not primarily for public dissemination.
- Information presented to Congress as part of legislative or oversight processes, such as testimony of MMS officials, and information or drafting assistance provided to Congress

in connection with proposed or pending legislation that is not simultaneously disseminated to the public.

- Documents not authored by MMS personnel and not representing MMS's views, including information authored and distributed by MMS grantees.
- Research data, findings, reports, and other materials published or otherwise distributed by employees or by MMS contractors or grantees that are identified as not endorsed by MMS.
- Opinions where the presentation makes it clear that what is being offered is not the official view of MMS.

PURPOSE

These guidelines describe MMS's policy and procedures for reviewing and substantiating the quality of information it disseminates. It also describes MMS's administrative mechanisms to allow affected persons to seek and obtain, where appropriate, correction of information disseminated by MMS that they believe may be in error or otherwise not comply with the law. These guidelines are not intended to replace existing procedures that are in place for rulemaking documents for correcting or commenting on data quality contained in those documents but are designed to supplement them.

Information disseminated may include organizational and management information about programs and services products, research and statistical reports, policy and regulatory information, and general reference information. We will evaluate and identify the types of information that we disseminate subject to these guidelines.

APPLICABILITY

These guidelines provide guidance to MMS staff and inform the public of MMS's policies and procedures. These guidelines are not regulations. They are not legally enforceable and do not create any legal rights or impose any legally binding requirements or obligations on MMS or the public. Nothing in these guidelines affects any otherwise available judicial review of MMS actions. The guidelines may not apply to a particular situation based on the circumstances, and MMS retains discretion to adopt approaches on a case-by-case basis that differ from the guidelines, where appropriate. Any decisions regarding a particular case, matter, or action will be made based on applicable statutes, regulations, and requirements.

Materials that constitute "information" that MMS "disseminates" to the public will be covered by these guidelines and will be subject to complaints by affected persons who seek to obtain correction of information maintained and disseminated by MMS that they believe does not comply with MMS's or OMB's guidelines. Factors, such as imminent threats to public health or homeland security, statutory or court-ordered deadlines, or other time constraints, may limit or preclude applicability of these guidelines.

Interested parties are free to raise questions and objections regarding the substance of these guidelines and the appropriateness of using them in a particular situation. MMS will consider whether or not the guidelines are appropriate in that situation.

PART II: INFORMATION QUALITY STANDARDS

To the greatest extent practicable and appropriate, information we disseminate is internally reviewed for quality—including objectivity, utility, and integrity—before such information is disseminated.

a. Information we disseminate to the public is normally subject to one or more levels of internal staff or supervisory review for quality before we disseminate the information.

b. The number of levels of internal quality review applied in a particular case depends on the nature, scope, and purpose of the information to be disseminated. For example, routine reports that may be prepared by staff about MMS's activities or operations may be subject to one or two levels of staff or supervisory review for basic accuracy and completeness before such reports are released to the general public. However, additional levels of internal review, supplementation, clarification, or approval by MMS management may be appropriate to the extent such a report may be intended as the basis for more complicated budgeting decisions, legislative reporting, or regulatory purposes (e.g., to satisfy a need for greater statistical detail or explanation).

We have adopted the information quality definitions published by OMB. They are discussed below.

Information Quality Procedures:

We may vary in our implementation approaches; however, the basic guidance published by OMB on January 3, 2002, and re-issued February 22, 2002, as adopted by DOI in a Federal Register Notice dated May 24, 2002, is included in our policy.

The OMB guidelines mandate that, after October 1, 2002, affected persons may seek and obtain, where appropriate, correction of disseminated information that does not comply with OMB's, DOI's, or MMS's guidelines. MMS will provide procedures to review and correct disseminated information and will establish a system for tracking and responding to complaints in accordance with this directive. As a part of this process, we will provide on our website (<http://www.mms.gov>) a means for affected persons to challenge the quality of disseminated

information. We will also provide addresses of appropriate officials for you to contact us through the mail to challenge the quality of disseminated information.

If you want to challenge the quality of our disseminated information, a complainant must provide the following information:

- name and address of the person filing the complaint,
- specific reference to the information being challenged,
- a statement that includes scientific and technical documentation of why the complainant believes the information fails to satisfy the standards in MMS's, DOI's, or OMB's guidelines, and
- how the complainant is affected by the challenged information. The complainant may include suggestions for correcting the challenged information, however, this is not mandatory.

Once MMS's point-of-contact for the Quality of Information receives a complaint, we will have 5 business days to notify the complainant of receipt. We will also notify the program area that disseminated the challenged information of the receipt of the complaint. We will have 60 business days from receipt of complete challenged information to evaluate whether the complaint is accurate based on an analysis of all information available and that provided by the complainant to the appropriate program or office. If, within the 60-business-day period, we determine that the complaint is without merit, we will notify the complainant. If, within the 60-business-day period, we determine that the complaint has merit, we will notify the complainant and the appropriate program or office. After we have completed our review, we will determine whether a correction is warranted, and if so, what corrective action to take. Any corrective action will be determined by the nature and timeliness of the information involved and such

factors as the significance of the error on the use of the information, the magnitude of the error, and the cost of undertaking a correction. The MMS is not required to change, or in any way alter, the content or status of information simply based on the receipt of a request for correction. The MMS need not respond substantively to frivolous or repetitive requests for correction. MMS is not required to respond substantively to requests that concern information not covered by the guidelines or from a person whom the information does not affect.

Subject to applicable law, rules and regulations, corrective measures may include, without limitation, personal contacts via letter or telephone, form letters, press releases or postings on MMS's website to correct a widely disseminated error or address a frequently raised request. Corrective measures, where appropriate, will be designed to provide reasonable notice to affected persons of any corrections made.

If a complainant does not receive the notices within the time frame described above, the complainant may contact the Associate Director for Policy and Management Improvement (AD/PMI) to determine the status of their complaint. If a complainant wishes to appeal a determination of merit or wishes to appeal the proposed correction of information, the complainant must appeal to the AD/PMI within 30 business days of receiving such notice. If the AD/PMI determines that an appeal of a determination of merit or the proposed correction of information has merit, the appropriate program office will be notified and the correction will be made in a reasonable timeframe.

If we receive a second complaint before we issue the 60-business-day notice for an overlapping and substantially similar complaint under review, it will be treated with simultaneous consideration, and we will notify the second complainant within 5 business days

that an analysis is in progress and provide the status. We will combine the earlier and later complaints and issue a combined 60-business-day notice.

If we receive the second complaint on the same subject after we have issued a 60-business-day notice, we will notify the complainant of our prior decision unless substantial new information has been submitted. In that instance, we will conduct a new and separate review.

Administrative Procedures Act—Rulemakings

We conduct substantial business following the public notice and comment procedures of the Administrative Procedures Act (APA) (5 U.S.C. 553). These activities include rulemakings and analyses conducted under the OCS Lands Act, as amended; Federal Oil and Gas Royalty Management Act; and Federal Oil and Gas Royalty Simplification and Fairness Act. There are some circumstances in which there is an existing process to respond to concerns expressed about MMS's information. The OMB guidelines encourage agencies to make use of existing processes in a flexible way tailored to their programs. When there is a sound process existing (such as a process that provides opportunities for public participation in making an agency decision), MMS's will not duplicate that process with a separate request response mechanism under these guidelines. For example, when an agency issues a notice of proposed rulemaking (NPR), it typically describes in the preamble the basis for its proposed regulatory provisions, which may include technical or scientific studies and a regulatory evaluation. In so doing, it disseminates these studies or evaluations, within the context of these guidelines. The public comment process can, and often does, generate views from interested persons about the soundness of the underlying information. If someone submits a request for correction pertaining to a document cited in an NPR, MMS will treat it procedurally like a comment to the rulemaking, responding to

it in the preamble of the final rule or a subsequent document such as a supplemental NPR, rather than through the separate request response mechanism of these guidelines. The content of the response will address the issues of the document's compliance with the information quality principles of OMB's and DOI's guidelines. This approach will also apply to other processes involving a structured opportunity for public participation on a proposed document, such as a draft environmental impact statement (EIS), before a final document is issued.

On the other hand, with respect to information appearing for the first time in a final rule or EIS, MMS will consider a request for correction. The MMS will not stay the final action involved. However, if it appeared that the information that was the subject of the request did not comply with the guidelines, and that, as a result, the final document was materially flawed, MMS will treat the matter as a request for reconsideration. In such cases, MMS will use any already existing mechanisms and procedures to reconsider corrections, such as the process to petition for a new rule or to request a supplemental EIS. The submission of a request for correction by itself does not in any way affect the finality of a decision by MMS.

This section concerns requests for correction concerning information on which MMS has sought public comment (e.g., an NPR, studies cited in an NPR, a regulatory evaluation or cost-benefit analysis pertaining to the NPR, a draft EIS, a proposed policy notice or order on which comment has been sought, and a request for comments on an information collection request subject to the Paperwork Reduction Act).

The MMS's response to the request for correction will normally be incorporated in the next document issued concerning the matter in which the request was made (e.g., in the case of an NPR, it would be addressed in the preamble to the final rule). MMS may choose to provide an earlier response, if doing so is appropriate and will not delay the issuance of the final action in

the matter. The MMS will consider issuing an earlier response if the complainant can demonstrate that actual harm will result from MMS's dissemination of this information. The MMS may also reject a request for correction with respect to information in a final rule, final EIS, or other final document if there was an opportunity for public comment or participation and interested persons could have requested the correction of the information at the proposed rule stage.

Paperwork Reduction Act (PRA)

It is important that MMS make use of OMB's PRA clearance process to help improve the quality of information that MMS collects and disseminates to the public. The MMS already is required to demonstrate in its PRA submissions to OMB the "practical utility" of a proposed collection of information MMS plans to disseminate. Additionally, for all proposed collections of information that will be disseminated to the public, MMS should demonstrate in its PRA clearance submissions to OMB that the proposed collection of information will result in information that will be collected, maintained, and used in a way consistent with OMB's, DOI's, and MMS's information quality guidelines.

OMB Reporting Requirements

We will submit a report for each fiscal year to DOI's Office of the Chief Information Officer (OCIO) no later than November 30 of each year. The report will identify the number, nature, and resolution of complaints received. The OCIO staff will consolidate all bureau reports into a DOI annual report and submit it annually by January 1 to the Director of OMB.

DEFINITIONS

1. *Quality* is an encompassing term that includes utility, objectivity, and integrity. Therefore, the guidelines sometimes refer to these four statutory terms collectively as *quality*.

2. **Utility** refers to the usefulness of the information to its intended users, including the public. In assessing the usefulness of information that we disseminate to the public, we need to reconsider the uses of the information not only from our perspective, but also from the perspective of the public. As a result, when transparency of information is relevant for assessing the information=s usefulness from the public=s perspective, we will take care to address that transparency in our review of the information.

3. **Objectivity** involves two distinct elements: presentations and substance.

(a) **Objectivity—presentation**—includes whether we disseminate information in an accurate, clear, complete, and unbiased manner. This involves whether the information is presented within a proper context. Sometimes, in disseminating certain types of information to the public, other information must also be disseminated in order to ensure an accurate, clear, complete, and unbiased presentation. Also, we will identify the sources of the disseminated information (to the extent possible, consistent with confidentiality protections) and include it in a specific financial, or statistical context so that the public can assess for itself whether there may be some reason to question the objectivity of the sources. Where appropriate, we will identify transparent documentation and error sources affecting data quality.

(b) In addition, **objectivity—substance**—involves a focus on ensuring accurate, reliable, and unbiased information. In a scientific, financial, or statistical context, we will analyze the original and supporting data and develop our results using sound statistical and research methods.

(1) If data and analytic results have been subjected to formal, independent, external peer review, we will generally presume that the information is of acceptable objectivity. However, a complainant may rebut this presumption based on a persuasive showing in a

particular instance. If we use peer review to help satisfy the objectivity standard, the review process employed shall meet the general criteria for competent and credible peer review recommended by OMB's Office of Information and Regulatory Affairs (OIRA) to the President's Management Council (9/20/01)

(http://www.whitehouse.gov/omb/infoereg/oira_review-process.html). OIRA recommends "that (a) peer reviewers be selected primarily on the basis of necessary technical expertise, (b) peer reviewers be expected to disclose to agencies prior technical/policy positions they may have taken on the issues at hand, (c) peer reviewers be expected to disclose to agencies their sources of personal and institutional funding (private or public sector), and (d) peer reviews be conducted in an open and rigorous manner."

(2) Since we are responsible for disseminating influential scientific, financial, and statistical information, our guidelines will include a high degree of *transparency* about data and methods to facilitate the *reproducibility* (the ability to reproduce the results) of such information by qualified third parties.

With regard to original and supporting related data, we will not require that all disseminated data be subjected to a *reproducibility* requirement. We may identify, in consultation with the relevant scientific and technical communities, those particular types of data that can practically be subjected to a reproducibility requirement, given ethical, feasibility, proprietary, or confidentiality constraints. It is understood that reproducibility of data is an indication of transparency about research design and methods and thus a replication exercise (i.e., a new experiment, test of sample) that will not be required prior to each release of information.

With regard to analytical results, our guidelines will generally require sufficient transparency about data and methods that a qualified member of the public could undertake an independent reanalysis. These transparency standards apply to our analysis of data from a single study as well as to analyses that combine information from multiple studies.

Ensuring the data and methods are publicly available will assist us in determining whether analytic results are reproducible. However, the objectivity standard does not override other compelling interests such as privacy, trade secrets, intellectual property, proprietary, and other confidentiality protections.

In situations where public access to data and methods will not occur due to other compelling interests, we will apply checks to analytical results and document what checks were undertaken. Our guidelines will, however, provide the specific data sources used, and the specific quantitative methods and assumptions we employed unless such information is deemed proprietary. We will define the type of checks, and the level of detail for documentation, given the nature and complexity of the issues.

4. *Integrity* refers to the security of information—protection of the information from unauthorized access or revision, to ensure that the information is not compromised through corruption or falsification.

5. *Information* is defined as any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms. This definition includes information that an agency disseminates from a web page but does not include the provision of hyperlinks to information that others disseminate. These guidelines do not apply to press releases, fact sheets, press conferences, congressional testimony or submissions, or similar communications in any medium that

announce, support the announcement or give public notice of information MMS has disseminated elsewhere. This definition also does not include distribution of information by Federal employees and recipients of grants, cooperative agreements, and contracts. These guidelines do not apply to information distributed by recipients of contracts, grants, or cooperative agreements, unless the information is disseminated on MMS's behalf, as when MMS specifically directs or approves the dissemination. These guidelines do not apply to distribution of any type of research by Federal employees and recipients of MMS grants, cooperative agreements, or contracts, where the researcher (not MMS) decides whether and how to communicate and publish the research, does so in the same manner as his or her academic colleagues, and distributes the research in a manner that indicates that the research does not represent MMS's official position (for example, by including an appropriate disclaimer). Distribution of research in this manner is not subject to these guidelines even if MMS retains ownership or other intellectual property rights because the Federal Government paid for the research.

6. *Government information* is defined as information created, collected, processed, disseminated, or disposed of by or for the Federal Government.

7. *Information dissemination product* is defined as any books, paper, map, machine-readable material, audiovisual production, or other documentary material, regardless of physical form or characteristic, an agency disseminates to the public. This definition includes any electronic document, CD-ROM, DVD, or web page.

8. *Dissemination* is defined as agency initiated or sponsored distribution of information to the public [see 5 CFR 1320.3(d) for definition of "conduct or sponsor"] that occurs after October 1, 2002. However, the fact that an information product that was disseminated by MMS

before October 1, 2002, is still maintained by MMS (e.g., MMS files, in publications that MMS continues to distribute on a website) does not make the information subject to these guidelines or to the request for correction process, unless MMS uses that information for decisionmaking after October 1, 2002.

Yet to be considered is how a complainant demonstrates that an agency disseminates information after October 1, 2002, if the agency first disseminated that information before October 1, 2002. For example, existing official agency databases, publicly available through agency websites or other means, that serve agency program responsibilities and/or are relied upon by the public as official government data are subject to the Section 515 administrative mechanisms to address public complaints because they are, in effect, constantly being redisseminated.

Unless the information disseminated before October 1, 2002, is subsequently used in an MMS decisionmaking process after October 1, 2002, in which a particular distribution of information is not covered by these guidelines, the guidelines may still apply to a subsequent distribution of the information in which MMS adopts, endorses, or uses the information to formulate or support a regulation, guidance, or other MMS decision or position. Dissemination does not include distribution limited to Government employees or agency contractors or grantees; intra- or inter-agency use or sharing of government information; and responses to requests for agency records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act or other similar law. This definition also does not include distribution limited to correspondence with individuals or persons, press releases, archival records, public filings, subpoenas, or adjudicative processes.

9. *Influential*, when used in the phrase “influential scientific, financial, or statistical information,” means that we can reasonably determine that dissemination of the information will have or does have a clear and substantial impact on important public policies or important private sector decisions. We are authorized to define “influential” in ways appropriate for us, given the nature and multiplicity of issues for which we are responsible.

10. *Reproducible* is defined as information capable of being substantially reproduced, subject to an acceptable degree of imprecision. For information judged to have more (less) important impacts, the degree of imprecision that is tolerated is reduced (increased). If we apply the reproducibility test to specific types of original or supporting data, the associated guidelines will provide relevant definitions of reproducibility (e.g., standards for replication of laboratory data). With respect to analytic results, ***capable of being substantially reproduced*** means that independent analysis of the original or supporting data using identical methods would demonstrate whether similar analytic results, subject to an acceptable degree of imprecision or error, could be generated.

LEGAL EFFECT

These guidelines are intended only to improve the internal management of MMS relating to information quality. Nothing in these guidelines is intended to create any right or benefit, substantive or procedural, enforceable by law or equity by a party against the United States, its agencies, its offices, or any other person. These guidelines do not provide any right to judicial review.

Date: July 31, 2002